

10/523607

DT01 Rec'd PCT/PTC 04 FEB 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

BERTHON-JONES et al.

Atty. Ref.: 4398-407

Serial No. National Phase of
PCT/AU2003/000988

TC/A.U.: Unassigned

Filed: February 4, 2005

Examiner: Unassigned

For: INEXTENSIBLE HEADGEAR AND CPAP OR VENTILATOR MASK
ASSEMBLY WITH SAME

* * * * *

February 4, 2005

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

INFORMATION DISCLOSURE STATEMENT

Listed on accompanying Form PTO-1449 is information that may be considered material to the examination of this application, in compliance with the duty of disclosure requirements of 37 C.F.R. §§ 1.56, 1.97 and 1.98.

This statement should not be construed as a representation that a search has been made, or that information more material to the examination of the present patent application does not exist. The Examiner is specifically requested not to rely solely on the material submitted herewith. At least one of the boxes below applies to the present application:

1. ☒ This Information Disclosure Statement is being filed within three months of the U.S. filing date OR before the mailing date of a first Office Action on the merits. No statement under 37 C.F.R. § 1.97(e) or fee is required.

a. ☐ Contingent Request to Treat Under 37 C.F.R. § 1.97(c)

In the event a first Office Action has been mailed prior to filing of the present Information Disclosure Statement and the Office Action was mailed more than three months since the filing of the application (for regular applications not including CPAs or RCEs), the Office is requested to treat the present paper as a submission under 37 C.F.R. § 1.97(c) and charge the

undersigned's Deposit Account No. 14-1140 for the fee required by 37 C.F.R. § 1.17(p). The present paper is submitted in duplicate for this purpose.

b. ☐ Contingent Request to Treat Under 37 C.F.R. § 1.97(e)(1)

In the event a first Office Action has been mailed prior to the filing of the present Information Disclosure Statement, and the Office Action was mailed more than three months since the filing of the application (for regular applications not including CPAs or RCEs), the Office is requested to treat the present paper as a submission under 37 C.F.R. § 1.97(e)(1) in that the undersigned hereby states that each item of information contained in this Information Disclosure Statement was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(1).

b.1. ☐ Patent Term Adjustment

I hereby certify that each item of information was cited in a communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in Section 1.56(c) more than 30 days prior to the filing of the Information Disclosure Statement. 37 C.F.R. §1.704(d).

c. ☐ Contingent Request to Treat Under 37 C.F.R. § 1.97(e)(2)

In the event a first Office Action has been mailed prior to the filing of the present Information Disclosure Statement, and the Office Action was mailed more than three months since the filing of the application (for regular applications not including CPAs or RCEs), the Office is requested to treat the present paper as a submission under 37 C.F.R. § 1.97(e)(2) in that the undersigned hereby states that no item of information in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to my

knowledge after making reasonable inquiry, no item of information contained in this Information Disclosure Statement was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(2).

2. ☐ This Information Disclosure Statement is being filed more than three months after the U.S. filing date AND after the mailing date of the first Office Action on the merits, but before the mailing date of a Final Rejection or Notice of Allowance.

a. ☐ I hereby state that each item of information contained in this Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(1). Contingent Request Under 37 C.F.R. § 1.97(d). In the event a Notice of Allowance or a Final Rejection has been mailed prior to filing this Information Disclosure Statement, the Office is authorized to treat this as a submission under 37 C.F.R. 1.97(d) and charge the undersigned's Deposit Account No. 14-1140 for the fee required by 37 C.F.R. § 1.17(p). The present paper is submitted in duplicate for this purpose.

a.1. ☐ Patent Term Adjustment

I hereby certify that each item of information was cited in a communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in Section 1.56(c) more than 30 days prior to the filing of the Information Disclosure Statement. 37 C.F.R. §1.704(d).

b. ☐ I hereby state that no item of information in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to my knowledge after making reasonable inquiry, no item of information contained in this

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Information Disclosure Statement was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(2).

c. ☐ Attached is our check in the amount of \$ in payment of the fee under 37 C.F.R. § 1.17(p).

3. ☐ This Information Disclosure Statement is being filed more than three months after the U.S. filing date and after the mailing date of a Final Rejection or Notice of Allowance, but before payment of the Issue Fee 37 C.F.R. § 1.97(d). It is hereby requested that the Information Disclosure Statement be considered. Attached is our check in the amount of \$ in payment of the fee under 37 C.F.R. § 1.17(i).

a. ☐ I hereby state that each item of information contained in this Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(1).

a.1. ☐ Patent Term Adjustment

I hereby certify that each item of information was cited in a communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in Section 1.56(c) more than 30 days prior to the filing of the Information Disclosure Statement. 37 C.F.R. §1.704(d).

b. ☐ I hereby state that no item of information in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to my knowledge after making reasonable inquiry, no item of information contained in this Information Disclosure Statement was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(2).

4. ☐ Relevance of the non-English language document(s) is discussed in the present specification.

5. ☒ The foreign patent documents were cited in a corresponding PCT application. An English language version of the foreign search report or official action is attached for the Examiner's information. See MPEP § 609.

a. ☐ U.S. Patent No. _____ is indicated in the foreign search report or Official Action as being in the same patent family and/or the English-language equivalent of _____ listed on the attached foreign search report.

6. ☐ A concise explanation of the relevance of the non-English language document(s) appears below:

7. ☐ Copies of the documents were cited by or submitted to the Office in Application No. _____, filed _____, which is relied upon for an earlier filing date under 35 U.S.C. § 120. Thus, copies of these documents are not attached. 37 C.F.R. § 1.98(d).

8. ☐ The publication date (e.g., month or year) of at least one of the listed documents is not available. For each document in this category, the Office is requested to assume that the year of publication of each listed document is earlier than the effective U.S. filing date and/or any foreign priority date.

9. ☐ The publication date of at least one document is listed on the attached PTO-1449 based on information presently available to the undersigned. However, each listed publication date should not be construed as an admission that the information was actually published on the date indicated, and the right to challenge each listed publication date is expressly reserved by Applicant(s).

It is respectfully requested that the Examiner initial and return a copy of the enclosed PTO-1449, and to indicate in the official file wrapper of this patent application that the documents have been considered.

BERTHON-JONES et al.
National Phase of PCT/U2003/000988

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04 FEB 2005

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 14-1140 referencing docket number 4398-407.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____



Paul T. Bowen
Reg. No. 38,009

PTB:jck
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714
Telephone: (703) 816-4000
Facsimile: (703) 816-4100

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Dkt. No.

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**INFORMATION DISCLOSURE STATEMENT
BY APPLICANT**

Applicant: Berthon-Jones et al.

Nat'l. Phase of PCT/AU2003/000988

Filing Date: February 4, 2005

Date: Page 1 of 12

Examiner: Unassigned Group Art Unit: Unassigned

U.S. PATENT DOCUMENTS

Examiner's Initials*	Document Number	Date MM/YYYY	Name (Family Name of First Inventor)	Class	Sub Class	Filing Date (if appropriate)
	AR 4,616,647	10/1986	McCreadie			
	BR 3,013,556	12/1961	Galleher, Jr.			
	CR 5,657,493	08/1997	Ferrero et al.			
	DR 5,372,130	12/1994	Stern et al.			
	ER 5,046,200	09/1991	Feder			
	FR 4,910,806	03/1990	Baker et al.			
	GR 3,315,674	04/1967	Bloom et al.			
	HR 2,317,608	04/1943	Heidbrink			
	IR 5,086,768	02/1992	Niemeyer			
	JR 6,044,844	04/2000	Kwok et al.			
	KR					
	LR					

FOREIGN PATENT DOCUMENTS

	Document Number	Date MM/YYYY	Country	Inventor Name	English Abstract		Translation Readily Available	
					Enclosed	No	Enclose	No
	MR							
	NR							
	OR							
	PR							
	QR							
	RR							
	SR							
	TR							
	UR							
	VR							

OTHER (Including in this order: Author, Title, Periodical Name, Date, Pertinent Pages, etc.)

WR				
XR				

Examiner

Date Considered:

*EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP § 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to Applicant.

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FORM PTO-1449 U.S. DEPARTMENT OF COMMERCE
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INFORMATION DISCLOSURE
 STATEMENT BY APPLICANT

(Use several sheets if necessary)

U.S. PATENT DOCUMENTS

EXAMINER INITIAL	PATENT NUMBER	ISSUE DATE	PATENTEE	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	781,516	01/31/05	Guthrie			
	812,706	02/13/06	Warbasse			
	1,081,745	12/16/13	Johnston et al.			
	1,192,186	07/25/16	Greene			
	1,653,572	12/20/27	Jackson			
	2,376,871	05/24/45	Fink			
	2,415,846	02/18/47	Randall			
	2,578,621	12/11/51	Yant			
	3,580,051	05/25/71	Blevins			
	3,720,235	03/13/73	Schrock			
	3,799,164	03/26/74	Rollins			
	4,328,797	05/11/82	Rollins, III et al.			
	4,467,799	08/28/84	Steinberg			
	4,558,710	12/17/85	Eichler			
	4,667,975	07/07/87	Edgar et al.			
	Des. 293,613	01/05/88	Wingler			
	4,739,755	04/26/88	White et al.			
	4,799,477	01/24/89	Lewis			
	4,809,692	03/07/89	Nowacki et al.			
	4,819,629	04/11/89	Jonson			
	4,938,210.	07/03/90	Shene			
	4,938,212	07/03/90	Gnook et al.			
	4,944,310	07/31/90	Sullivan			
	4,986,269	01/22/91	Hakkinen			
	5,063,922	11/12/91	Hakkinen			
	Des. 323,908	02/11/92	Hollister et al.			
	5,109,839	05/05/92	Blasdell et al.			
	5,121,745	06/16/92	Israel			
	5,159,938	11/03/92	Laughlin			
	5,178,138	01/12/93	Walstrom et al.			
	5,231,983	08/03/93	Matson et al.			
	5,233,978	08/10/93	Callaway			
	5,280,784	01/25/94	Kohler			
	5,311,862	05/17/94	Blasdell et al.			
	5,322,057	06/21/94	Raabe et al.			
	5,338,571	02/14/95	Roberts et al.			

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U.S. PATENT DOCUMENTS

EXAMINER INITIAL		PATENT NUMBER	ISSUE DATE	PATENTEE	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
		5,404,871	04/11/95	Goodman et al.			
		5,479,920	01/02/96	Piper et al.			
		5,509,404	04/23/96	Lloyd			
		5,538,000	07/23/96	Rudolph			
		5,560,354	10/01/96	Berthon-Jones et al.			
		Re. 35, 339	10/01/96	Rapoport			
		5,608,647	03/04/97	Rubsamen et al.			
		5,642,730	07/01/97	Baran			
		5,649,532	07/22/97	Griffiths			
		5,649,533	07/22/97	Oren			
		5,655,520	08/12/97	Howe et al.			
		5,662,101	09/02/97	Ogden et al.			

FOREIGN PATENT OR PUBLISHED FOREIGN PATENT APPLICATION

		DOCUMENT NUMBER	PUBLISHED DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION	
							YES	NO

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages etc.)

EXAMINER	DATE CONSIDERED
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EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

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FORM PTO-1449 U.S. DEPARTMENT OF COMMERCE
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(Use several sheets if necessary)

U.S. PATENT DOCUMENTS

EXAMINER INITIAL	PATENT NUMBER	ISSUE DATE	PATENTEE	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	3,182,659	05/11/65	Blount et al.			
	3,193,624	07/06/65	Webb et al.			
	4,989,596	02/05/91	Macris et al.			
	5,140,980	08/25/92	Haughey et al.			
	5,546,936	08/20/96	Virag et.al.			

FOREIGN PATENT OR PUBLISHED FOREIGN PATENT APPLICATION

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						YES	NO

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U.S. PATENT DOCUMENTS

EXAMINER INITIAL	PATENT NUMBER	ISSUE DATE	PATENTEE	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	5,570,682	11/05/96	Johnson			
	5,666,946	09/16/97	Langenback			

FOREIGN PATENT OR PUBLISHED FOREIGN PATENT APPLICATION

		DOCUMENT NUMBER	PUBLISHED DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION	
							YES	NO

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U.S. PATENT DOCUMENTS

EXAMINER INITIAL	PATENT NUMBER	ISSUE DATE	PATENTEE	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	5,069,205	12/03/91	Urso			
	5,429,126	07/04/95	Bracken			
	5,542,128	08/06/96	Lomas			

FOREIGN PATENT OR PUBLISHED FOREIGN PATENT APPLICATION

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						YES	NO

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U.S. PATENT DOCUMENTS

EXAMINER INITIAL	PATENT NUMBER	ISSUE DATE	PATENTEE	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	1,926,027	09/12/33	Biggs			
	2,248,477	07/08/41	Lombard			
	2,371,965	03/20/45	Lehmberg			
	2,438,058	03/16/48	Kincheloe			
	3,189,027	06/15/65	Bartlett			
	3,238,943	03/08/66	Holley			
	3,362,420	01/09/68	Blackburn, et al.			
	3,363,833	01/16/68	Laerdal			
	3,556,122	01/19/71	Laerdal			
	3,700,000	10/24/72	Hesse, deceased et al.			
	3,796,216	03/12/74	Schwarz			
	4,077,404	03/07/78	Elam			
	4,226,234	10/07/80	Gunderson			
	4,245,632	01/20/81	Houston			
	4,304,229	12/08/81	Curtin			
	4,347,205	08/31/82	Stewart			
	4,412,537	11/01/83	Tiger			
	4,522,639	06/11/85	Ansite, et al.			
	4,622,964	11/18/86	Flynn			
	4,671,271	06/09/87	Bishop, et al.			
	4,774,941	10/04/88	Cook			
	4,821,713	04/18/89	Bauman			
	4,841,953	06/27/89	Dodrill			
	4,848,366	07/18/89	Aita, et al.			
	4,919,128	04/24/90	Kopala, et al.			
	5,005,568	04/09/91	Loescher, et al.			
	5,042,473	08/27/91	Lewis			
	5,042,478	08/27/91	Kopala, et al.			
	5,109,840	05/05/92	Daleiden			
	5,133,347	07/28/92	Huennebeck			

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U.S. PATENT DOCUMENTS (Continued)

EXAMINER INITIAL	PATENT NUMBER	ISSUE DATE	PATENTEE	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	5,140,982	08/25/92	Bauman			
	Des. 334,633	04/06/93	Rudolph			
	5,265,595	11/30/93	Rudolph			
	5,279,289	01/18/94	Kirk			
	5,357,951	10/25/94	Ratner			
	5,419,318	05/30/95	Tayebi			
	5,431,158	07/11/95	Tirotta			
	5,488,948	02/06/96	Dubruille, et al.			
	5,685,296	11/11/97	Zdrojkowski, et al.			
	5,687,715	11/18/97	Landis, et al.			
	5,715,814	02/10/98	Ebers			

FOREIGN PATENT OR PUBLISHED FOREIGN PATENT APPLICATION

		DOCUMENT NUMBER	PUBLISHED DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION	
							YES	NO

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages etc.)

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U.S. PATENT DOCUMENTS

EXAMINER INITIAL	PATENT NUMBER	ISSUE DATE	PATENTEE	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	2,123,353	07/12/38	Catt			
	2,254,854	09/02/41	O'Connell			
	2,931,356	04/05/60	Schwarz			
	Des. 188,084	05/31/60	Garellick			
	2,939,458	06/07/60	Lundquist			
	3,315,674	04/25/67	Bloom et al.			
	3,330,273	07/11/67	Bennett			
	Des. 231,803	06/11/74	Huddy			
	Des. 250,131	10/31/78	Lewis et al.			
	4,167,185	09/11/79	Lewis			
	Des. 262,322	12/15/81	Mizerak			
	4,328,797	05/11/82	Rollins, III et al.			
	4,354,488	10/19/82	Bartos			
	4,402,316	09/06/83	Gadberry			
	4,655,213	04/07/87	Rapoport et al.			
	4,665,570	05/19/87	Davis			
	4,677,977	07/07/87	Wilcox			
	Des. 293, 613	01/05/88	Wingler			
	4,770,169	09/13/88	Schmoegner et al.			
	4,782,832	11/08/88	Trimble et al.			
	4,848,334	07/18/89	Bellm			
	4,907,584	03/13/90	McGinnis			
	Des. 310,431	09/04/90	Bellm			
	4,971,051	11/20/90	Toffolon			
	4,989,599	02/05/91	Carter			
	5,005,571	04/09/91	Dietz			
	5,038,776	08/13/91	Harrison et al.			
	5,243,971	09/14/93	Sullivan et al.			
	5,343,878	09/06/94	Scarberry et al.			

Examiner: Unassigned
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04 FEB 2005

		5,429,683	07/04/95	Le Mitouard			
		5,438,981	08/08/95	Starr et al.			
		5,441,046	08/15/95	Starr et al.			
		Des. 362,061	09/05/95	McGinnis et al.			
		5,477,852	12/26/95	Landis et al.			
		5,492,116	02/20/96	Scarberry et al.			
		5,501,214	03/26/96	Sabo			
		5,517,986	05/21/96	Starr et al.			
		5,540,223	07/30/96	Starr et al.			
		5,560,354	10/01/96	Berthon-Jones et al.			
		5,570,689	11/05/96	Starr et al.			
		Des. 377,089	12/31/96	Starr et al.			
		5,592,938	01/14/97	Scarberry et al.			
		5,647,355	07/15/97	Starr et al.			
		5,647,357	07/15/97	Barnett et al.			
		5,655,527	08/12/97	Scarberry et al.			
		5,657,752	08/19/97	Landis et al.			
		5,662,101	09/02/97	Ogden et al.			

[illegible]

INFORMATION DISCLOSURE
CITATION

ATTY. DOCKET NO.

4398-407

SERIAL NO.

National Phase of

PCT/AU2003/000988

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APPLICANT

BERTHON-JONES et al.

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FILING DATE

February 4, 2005

TC/A.U.

Unassigned

U.S. PATENT DOCUMENTS

*EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	2,317,608	04/1943	HEIDBRINK			
	2,974,665	03/1961	MOTSINGER			
	3,013,556	12/1961	GALLEHER, JR.			
	4,623,573	11/1986	KATZ			
	4,668,325	05/1987	KATZ			
	4,704,172	11/1987	KATZ			
	4,778,706	10/1988	KATZ			
	4,960,121	10/1990	NELSON et al.			
	5,038,776	08/1992	HARRISON et al.			
	5,069,205	12/1991	URSO			
	5,074,297	12/1991	VENEGAS			
	5,191,882	03/1993	VOGLIANO			
	5,260,015	11/1993	KENNEDY et al.			
	6,412,487	07/2002	GUNARATNAM et al.			
	6,615,834	09/2003	GRADON et al.			
	6,631,718	10/2003	LOVELL			

FOREIGN PATENT DOCUMENTS

DOCUMENT	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION YES NO
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APPLICANT

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